

CAMPAIGN REFORM AND ELECTION INTEGRITY ACT OF
1999

AUGUST 5, 1999.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. THOMAS, from the Committee on House Administration,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 2668]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 2668) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Campaign Reform and Election Integrity Act of 1999”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References in act.

TITLE I—BAN ON FOREIGN CONTRIBUTIONS

Sec. 101. Extension of ban on foreign contributions to all campaign-related disbursements; protecting equal participation of eligible voters.

TITLE II—IMPROVING REPORTING OF INFORMATION

Sec. 201. Mandatory electronic filing for certain reports; expediting reporting of information.

Sec. 202. Reporting of secondary payments; expansion of other types of information reported.

Sec. 203. Disclosure requirements for certain soft money expenditures of political parties.

TITLE III—STRENGTHENING ENFORCEMENT AND ADMINISTRATION OF FEDERAL ELECTION COMMISSION

- Sec. 301. Standards for initiation of actions and written responses by Federal Election Commission.
- Sec. 302. Banning acceptance of cash contributions greater than \$100.
- Sec. 303. Deposit of certain contributions and donations to be returned to donors in Treasury account.
- Sec. 304. Alternative procedures for imposition of penalties for reporting violations.
- Sec. 305. Abolition of ex officio membership of Clerk of House of Representatives and Secretary of Senate on Commission.
- Sec. 306. Broader prohibition against force and reprisals.
- Sec. 307. Signature authority of members of Commission for subpoenas and notification of intent to seek additional information.

TITLE IV—SIMPLIFYING AND CLARIFYING FEDERAL ELECTION LAW

- Sec. 401. Application of aggregate contribution limit on calendar year basis during non-election years.
- Sec. 402. Treatment of lines of credit obtained by candidates as commercially reasonable loans.
- Sec. 403. Repeal Secretary of Commerce reports on district-specific population.
- Sec. 404. Technical correction regarding treatment of honoraria.

TITLE V—EFFECTIVE DATE

- Sec. 501. Effective date.

SEC. 2. REFERENCES IN ACT.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Federal Election Campaign Act of 1971.

TITLE I—BAN ON FOREIGN CONTRIBUTIONS

SEC. 101. EXTENSION OF BAN ON FOREIGN CONTRIBUTIONS TO ALL CAMPAIGN-RELATED DISBURSEMENTS; PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS.

(a) PROHIBITION ON DISBURSEMENTS BY FOREIGN NATIONALS.—Section 319 (2 U.S.C. 441e) is amended—

(1) in the heading, by striking “CONTRIBUTIONS” and inserting “DONATIONS AND OTHER DISBURSEMENTS”;

(2) in subsection (a), by striking “contribution” each place it appears and inserting “donation or other disbursement”; and

(3) in subsection (a), by striking the semicolon and inserting the following: “, including any donation or other disbursement to a political committee of a political party and any donation or other disbursement for an independent expenditure;”.

(b) CODIFICATION OF REGULATIONS PROHIBITING USE OF FOREIGN FUNDS BY MULTICANDIDATE POLITICAL COMMITTEES; PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.—Section 319 (2 U.S.C. 441e) is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsections:

“(b) It shall be unlawful for any person organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States to make any donation or other disbursement to any candidate for political office in connection with an election for any political office, or to make any donation or other disbursement to any political committee or to any organization or account created or controlled by any United States political party, unless such donation or disbursement is derived solely from funds generated from such person’s own business activities in the United States.

“(c) Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual’s employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions, donations, and other disbursements made on or after the date of the enactment of this Act.

TITLE II—IMPROVING REPORTING OF INFORMATION

SEC. 201. MANDATORY ELECTRONIC FILING FOR CERTAIN REPORTS; EXPEDITING REPORTING OF INFORMATION.

(a) **REQUIRING ELECTRONIC FILING WITHIN 24 HOURS OF CERTAIN CONTRIBUTIONS AND INDEPENDENT EXPENDITURES MADE WITHIN 90 DAYS OF ELECTION.**—

(1) **IN GENERAL.**—Section 304(a) (2 U.S.C. 434(a)) is amended by adding at the end the following new paragraph:

“(12)(A) Notwithstanding any other provision of this Act, each political committee described in subparagraph (B)(i) that receives a contribution in an amount equal to or greater than \$200, and any person described in subparagraph (B)(ii) who makes an independent expenditure, during the period which begins on the 90th day before an election and ends at the time the polls close for such election shall, with respect to any information required to be filed with the Commission under this section with respect to such contribution or independent expenditure, file and preserve the information using electronic mail, the Internet, or such other method of instantaneous transmission as the Commission may permit, and shall file the information within 24 hours after the receipt of the contribution or the making of the independent expenditure.

“(B) For purposes of subparagraph (A)—

“(i) a political committee described in this clause is a political committee that has received an aggregate amount of contributions equal to or greater than \$50,000 with respect to the election cycle involved; and

“(ii) a person described in this clause is a person who makes an aggregate amount of independent expenditures during the election cycle involved or during any of the 2 previous 2-year general election cycles in an amount equal to or greater than \$10,000.

“(C) The Commission shall make the information filed under this paragraph available on the Internet immediately upon receipt.”.

(2) **INTERNET DEFINED.**—Section 301(19) (2 U.S.C. 431(19)) is amended to read as follows:

“(19) The term ‘Internet’ means the international computer network of both Federal and non-Federal interoperable packet-switched data networks.”.

(b) **REQUIRING REPORTS OF CERTAIN FILERS TO BE TRANSMITTED ELECTRONICALLY; CERTIFICATION OF PRIVATE SECTOR SOFTWARE.**—Section 304(a)(11)(A) (2 U.S.C. 434(a)(11)(A)) is amended by striking the period at the end and inserting the following: “, except that in the case of a report submitted by a person who reports an aggregate amount of contributions or expenditures (as the case may be) in all reports filed with respect to the election cycle involved (taking into account the period covered by the report) in an amount equal to or greater than \$50,000, the Commission shall require the report to be filed and preserved by electronic mail, the Internet, or such other method of instantaneous transmission as the Commission may permit. The Commission shall certify (on an ongoing basis) private sector computer software which may be used for filing reports by such methods.”.

(c) **REQUIRING REPORTS FOR ALL CONTRIBUTIONS MADE WITHIN 20 DAYS OF ELECTION; REQUIRING REPORTS TO BE MADE WITHIN 24 HOURS.**—Section 304(a)(6)(A) (2 U.S.C. 434(a)(6)(A)) is amended—

(1) by striking “after the 20th day, but more than 48 hours before any election” and inserting “during the period which begins on the 20th day before an election and ends at the time the polls close for such election”; and

(2) by striking “48 hours” the second place it appears and inserting the following: “24 hours (or, if earlier, by midnight of the day on which the contribution is deposited)”.

(d) **REQUIRING ACTUAL RECEIPT OF CERTAIN INDEPENDENT EXPENDITURE REPORTS WITHIN 24 HOURS.**—

(1) **IN GENERAL.**—Section 304(c)(2) (2 U.S.C. 434(c)(2)) is amended in the matter following subparagraph (C)—

(A) by striking “shall be reported” and inserting “shall be filed”; and

(B) by adding at the end the following new sentence: “Notwithstanding subsection (a)(5), the time at which the statement under this subsection is received by the Secretary, the Commission, or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.”.

(2) CONFORMING AMENDMENT.—Section 304(a)(5) (2 U.S.C. 434(a)(5)) is amended by striking “or (4)(A)(ii)” and inserting “or (4)(A)(ii), or the second sentence of subsection (c)(2)”.

(e) CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.—

(1) IN GENERAL.—Section 304(b) (2 U.S.C. 434(b)) is amended—

(A) by inserting “(or election cycle, in the case of an authorized committee of a candidate for Federal office)” after “calendar year” each place it appears in paragraphs (2), (3), (4), and (7); and

(B) in paragraph (6)(A), by striking “calendar year” and inserting “election cycle”.

(2) ELECTION CYCLE DEFINED.—Section 301 (2 U.S.C. 431) is amended by adding at the end the following:

“(20) ELECTION CYCLE.—Except as the Commission may otherwise provide, the term ‘election cycle’ means, with respect to an election, the period beginning on the day after the date of the most recent general election for the office involved and ending on the date of the election.”.

(f) CLARIFICATION OF PERMISSIBLE USE OF FACSIMILE MACHINES AND ELECTRONIC MAIL TO FILE REPORTS.—Section 304(a)(11)(A) (2 U.S.C. 434(a)(11)(A)) is amended by striking “method,” and inserting the following: “method (including by facsimile device or electronic mail in the case of any report required to be filed within 24 hours after the transaction reported has occurred),”.

SEC. 202. REPORTING OF SECONDARY PAYMENTS; EXPANSION OF OTHER TYPES OF INFORMATION REPORTED.

(a) REQUIRING RECORD KEEPING AND REPORT OF SECONDARY PAYMENTS BY CAMPAIGN COMMITTEES.—

(1) REPORTING.—Section 304(b)(5)(A) (2 U.S.C. 434(b)(5)(A)) is amended by striking the semicolon at the end and inserting the following: “, and, if such person in turn makes expenditures which aggregate \$5,000 or more in an election cycle to other persons (not including employees) who provide goods or services to the candidate or the candidate’s authorized committees, the name and address of such other persons, together with the date, amount, and purpose of such expenditures;”.

(2) RECORD KEEPING.—Section 302 (2 U.S.C. 432) is amended by adding at the end the following new subsection:

“(j) A person described in section 304(b)(5)(A) who makes expenditures which aggregate \$5,000 or more in an election cycle to other persons (not including employees) who provide goods or services to a candidate or a candidate’s authorized committees shall provide to a political committee the information necessary to enable the committee to report the information described in such section.”.

(3) NO EFFECT ON OTHER REPORTS.—Nothing in the amendments made by this subsection may be construed to affect the terms of any other recordkeeping or reporting requirements applicable to candidates or political committees under title III of the Federal Election Campaign Act of 1971.

(b) INCLUDING REPORT ON CUMULATIVE CONTRIBUTIONS AND EXPENDITURES IN POST ELECTION REPORTS.—Section 304(a)(7) (2 U.S.C. 434(a)(7)) is amended—

(1) by striking “(7)” and inserting “(7)(A)”; and

(2) by adding at the end the following new subparagraph:

“(B) In the case of any report required to be filed by this subsection which is the first report required to be filed after the date of an election, the report shall include a statement of the total contributions received and expenditures made as of the date of the election.”.

(c) INCLUDING INFORMATION ON AGGREGATE CONTRIBUTIONS IN REPORT ON ITEMIZED CONTRIBUTIONS.—Section 304(b)(3) (2 U.S.C. 434(b)(3)) is amended—

(1) in subparagraph (A), by inserting after “such contribution” the following: “and the total amount of all such contributions made by such person with respect to the election involved”; and

(2) in subparagraph (B), by inserting after “such contribution” the following: “and the total amount of all such contributions made by such committee with respect to the election involved”.

SEC. 203. DISCLOSURE REQUIREMENTS FOR CERTAIN SOFT MONEY EXPENDITURES OF POLITICAL PARTIES.

(a) TRANSFERS OF FUNDS BY NATIONAL POLITICAL PARTIES.—Section 304(b)(4) (2 U.S.C. 434(b)(4)) is amended—

(1) by striking “and” at the end of subparagraph (H);

(2) by adding “and” at the end of subparagraph (I); and

(3) by adding at the end the following new subparagraph:

“(J) in the case of a political committee of a national political party, all funds transferred to any political committee of a State or local political party, without regard to whether or not the funds are otherwise treated as contributions or expenditures under this title;”.

(b) DISCLOSURE BY STATE AND LOCAL POLITICAL PARTIES OF INFORMATION REPORTED UNDER STATE LAW.—Section 304 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

“(d) If a political committee of a State or local political party is required under a State or local law, rule, or regulation to submit a report on its disbursements to an entity of the State or local government, the committee shall file a copy of the report with the Commission at the time it submits the report to such an entity.”.

TITLE III—STRENGTHENING ENFORCEMENT AND ADMINISTRATION OF FEDERAL ELEC- TION COMMISSION

SEC. 301. STANDARDS FOR INITIATION OF ACTIONS AND WRITTEN RESPONSES BY FEDERAL ELECTION COMMISSION.

(a) STANDARD FOR INITIATION OF ACTIONS BY FEC.—Section 309(a)(2) (2 U.S.C. 437g(a)(2)) is amended by striking “it has reason to believe” and all that follows through “of 1954,” and inserting the following: “it has a reason to seek additional information regarding a possible violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 that has occurred or is about to occur (based on the same criteria applicable under this paragraph prior to the enactment of the Campaign Reform and Election Integrity Act of 1999),”.

(b) REQUIRING FEC TO PROVIDE WRITTEN RESPONSES TO QUESTIONS.—

(1) IN GENERAL.—Title III (2 U.S.C. 431 et seq.) is amended by inserting after section 308 the following new section:

“OTHER WRITTEN RESPONSES TO QUESTIONS

“SEC. 308A. (a) PERMITTING RESPONSES.—In addition to issuing advisory opinions under section 308, the Commission shall issue written responses pursuant to this section with respect to a written request concerning the application of this Act, chapter 95 or chapter 96 of the Internal Revenue Code of 1986, a rule or regulation prescribed by the Commission, or an advisory opinion issued by the Commission under section 308, with respect to a specific transaction or activity by the person, if the Commission finds the application of the Act, chapter, rule, regulation, or advisory opinion to the transaction or activity to be clear and unambiguous.

“(b) PROCEDURE FOR RESPONSE.—

“(1) ANALYSIS BY STAFF.—The staff of the Commission shall analyze each request submitted under this section. If the staff believes that the standard described in subsection (a) is met with respect to the request, the staff shall circulate a statement to that effect together with a draft response to the request to the members of the Commission.

“(2) ISSUANCE OF RESPONSE.—Upon the expiration of the 3-day period beginning on the date the statement and draft response is circulated (excluding weekends or holidays), the Commission shall issue the response, unless during such period any member of the Commission objects to issuing the response.

“(c) EFFECT OF RESPONSE.—

“(1) SAFE HARBOR.—Notwithstanding any other provisions of law, any person who relies upon any provision or finding of a written response issued under this section and who acts in good faith in accordance with the provisions and findings of such response shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1986.

“(2) NO RELIANCE BY OTHER PARTIES.—Any written response issued by the Commission under this section may only be relied upon by the person involved in the specific transaction or activity with respect to which such response is issued, and may not be applied by the Commission with respect to any other person or used by the Commission for enforcement or regulatory purposes.

“(d) PUBLICATION OF REQUESTS AND RESPONSES.—The Commission shall make public any request for a written response made, and the responses issued, under this section. In carrying out this subsection, the Commission may not make public the identity of any person submitting a request for a written response unless the person specifically authorizes to Commission to do so.

“(e) COMPILATION OF INDEX.—The Commission shall compile, publish, and regularly update a complete and detailed index of the responses issued under this section through which responses may be found on the basis of the subjects included in the responses.”.

(2) CONFORMING AMENDMENT.—Section 307(a)(7) (2 U.S.C. 437d(a)(7)) is amended by striking “of this Act” and inserting “and other written responses under section 308A”.

(c) STANDARD FORM FOR COMPLAINTS; STRONGER DISCLAIMER LANGUAGE.—

(1) STANDARD FORM.—Section 309(a)(1) (2 U.S.C. 437g(a)(1)) is amended by inserting after “shall be notarized,” the following: “shall be in a standard form prescribed by the Commission, shall not include (but may refer to) extraneous materials,”.

(2) DISCLAIMER LANGUAGE.—Section 309(a)(1) (2 U.S.C. 437g(a)(1)) is amended—

(A) by striking “(a)(1)” and inserting “(a)(1)(A)”; and

(B) by adding at the end the following new subparagraph:

“(B) The written notice of a complaint provided by the Commission under subparagraph (A) to a person alleged to have committed a violation referred to in the complaint shall include a cover letter (in a form prescribed by the Commission) and the following statement: ‘The enclosed complaint has been filed against you with the Federal Election Commission. The Commission has not verified or given official sanction to the complaint. The Commission will make no decision to pursue the complaint for a period of at least 15 days from your receipt of this complaint. You may, if you wish, submit a written statement to the Commission explaining why the Commission should take no action against you based on this complaint. If the Commission should decide to seek additional information, you will be notified and be given further opportunity to respond.’”.

SEC. 302. BANNING ACCEPTANCE OF CASH CONTRIBUTIONS GREATER THAN \$100.

Section 315 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

“(i) No candidate or political committee may accept any contributions of currency of the United States or currency of any foreign country from any person which, in the aggregate, exceed \$100.”.

SEC. 303. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

“TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

“SEC. 323. (a) TRANSFER TO COMMISSION.—

“(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

“(A) the contribution or donation is in an amount equal to or greater than \$500 (other than a contribution or donation returned within 90 days of receipt by the committee); or

“(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 90 days of receipt by the committee).

“(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

“(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

“(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

“(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

“(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

“(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

“(i) deposit the amount in the escrow account established under subparagraph (A); and

“(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

“(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

“(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—

The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

“(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code, against the person making the contribution or donation.

“(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

“(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

“(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) to seek additional information regarding whether or not the contribution or donation was made in violation of this Act; or

“(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

“(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

“(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.”

(b) AMOUNTS USED TO DETERMINE AMOUNT OF PENALTY FOR VIOLATION.—Section 309(a) (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following new paragraph:

“(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 323, the amount of the donation involved shall be treated as the amount of the contribution involved.”

(c) DONATION DEFINED.—Section 323, as added by subsection (a), is amended by adding at the end the following:

“(d) DONATION DEFINED.—In this section, the term ‘donation’ means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in section 301(8)).”

(d) DISGORGEMENT AUTHORITY.—Section 309 (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

“(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 323.”

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to contributions or donations refunded on or after the date of the enactment of this Act, without regard to whether the Federal Election Commission or Attorney General has issued regulations to carry out section 323 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) by such date.

SEC. 304. ALTERNATIVE PROCEDURES FOR IMPOSITION OF PENALTIES FOR REPORTING VIOLATIONS.

(a) IN GENERAL.—Section 309(a)(4) (2 U.S.C. 437g(a)(4)) is amended—

(1) in subparagraph (A)(i), by striking “clause (ii)” and inserting “clause (ii) and subparagraph (C)”; and

(2) by adding at the end the following new subparagraph:

“(C)(i) Notwithstanding subparagraph (A), in the case of a violation of any requirement under this Act relating to the reporting of receipts or disbursements, the Commission may—

“(I) find that a person committed such a violation on the basis of information obtained pursuant to the procedures described in paragraphs (1) and (2); and

“(II) based on such finding, require the person to pay a civil money penalty in an amount determined under a schedule of penalties which is established and published by the Commission and which takes into account the amount of the violation involved, the existence of previous violations by the person, and such other factors as the Commission considers appropriate (but which in no event exceeds \$20,000).

“(ii) The Commission may not make any determination adverse to a person under clause (i) until the person has been given written notice and an opportunity to be heard before the Commission.

“(iii) Any person against whom an adverse determination is made under this subparagraph may obtain a review of such determination by filing in the United States District Court for the District of Columbia or for the district in which the person resides or transacts business (prior to the expiration of the 30-day period which begins on the date the person receives notification of the determination) a written petition requesting that the determination be modified or set aside.”.

(b) CONFORMING AMENDMENT.—Section 309(a)(6)(A) (2 U.S.C. 437g(a)(6)(A)) is amended by striking “paragraph (4)(A)” and inserting “paragraph (4)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after January 1, 2001.

SEC. 305. ABOLITION OF EX OFFICIO MEMBERSHIP OF CLERK OF HOUSE OF REPRESENTATIVES AND SECRETARY OF SENATE ON COMMISSION.

Section 306(a) (2 U.S.C. 437c(a)) is amended—

(1) in paragraph (1), by striking “the Secretary of the Senate and the Clerk” and all that follows through “right to vote, and”; and

(2) in paragraphs (3), (4), and (5), by striking “(other than the Secretary of the Senate and the Clerk of the House of Representatives)” each place it appears.

SEC. 306. BROADER PROHIBITION AGAINST FORCE AND REPRISALS.

Section 316(b)(3) (2 U.S.C. 441b(b)(3)) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D); and

(2) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

“(A) for such a fund to cause another person to make a contribution or expenditure by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal;”.

SEC. 307. SIGNATURE AUTHORITY OF MEMBERS OF COMMISSION FOR SUBPOENAS AND NOTIFICATION of INTENT TO SEEK ADDITIONAL INFORMATION.

(a) ISSUANCE OF SUBPOENAS.—Section 307(a)(3) (2 U.S.C. 437d(a)(3)) is amended by striking “signed by the chairman or the vice chairman” and inserting “signed by any member of the Commission”.

(b) NOTIFICATIONS OF INTENT TO SEEK ADDITIONAL INFORMATION.—Section 309(a)(2) (2 U.S.C. 437g(a)(2)) is amended by striking “through its chairman or vice chairman” and inserting “through any of its members”.

TITLE IV—SIMPLIFYING AND CLARIFYING FEDERAL ELECTION LAW

SEC. 401. APPLICATION OF AGGREGATE CONTRIBUTION LIMIT ON CALENDAR YEAR BASIS DURING NON-ELECTION YEARS.

Section 315(a)(3) (2 U.S.C. 441a(a)(3)) is amended by striking the second sentence.

SEC. 402. TREATMENT OF LINES OF CREDIT OBTAINED BY CANDIDATES AS COMMERCIALY REASONABLE LOANS.

Section 301(8)(B) (2 U.S.C. 431(8)(B)) is amended—

(1) by striking “and” at the end of clause (xiii);

(2) by striking the period at the end of clause (xiv) and inserting “; and”; and

(3) by adding at the end the following new clause:

“(xv) any loan of money derived from an advance on a candidate’s brokerage account, credit card, home equity line of credit, or other line of credit available

to the candidate, if such loan is made in accordance with applicable law and under commercially reasonable terms and if the person making such loan makes loans in the normal course of the person's business.”.

SEC. 403. REPEAL SECRETARY OF COMMERCE REPORTS ON DISTRICT-SPECIFIC POPULATION.

(a) REPEAL REPORT BY SECRETARY OF COMMERCE ON DISTRICT-SPECIFIC VOTING AGE POPULATION.—Section 315(e) (2 U.S.C. 441a(e)) is amended by striking “States, of each State, and of each congressional district” and inserting “States and of each State”.

(b) DEADLINE FOR REPORTING OF CERTAIN ANNUAL ESTIMATES TO COMMISSION.—

(1) PRICE INDEX.—Section 315(c)(1) (2 U.S.C. 441a(c)(1)) is amended—

(A) by striking “At the beginning” and inserting “Not later than February 15”; and

(B) by striking “as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor,”.

(2) VOTING AGE POPULATION.—Section 315(e) (2 U.S.C. 441a(e)) is amended by striking “During the first week of January 1975, and every subsequent year,” and inserting “Not later than February 15 of 1975 and each subsequent year,”.

SEC. 404. TECHNICAL CORRECTION REGARDING TREATMENT OF HONORARIA.

Section 301(8)(B) (2 U.S.C. 431(8)(B)), as amended by section 402, is further amended—

(1) by adding “and” at the end of clause (xiii);

(2) by striking clause (xiv); and

(3) by redesignating clause (xv) as clause (xiv).

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

Except as otherwise specifically provided, this Act and the amendments made by this Act shall apply with respect to elections occurring after January 2001.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 2668, the Campaign Reform and Integrity Act of 1999, is to reform the federal election process by: (1) providing citizens with timely information about campaign contributions and expenditures; (2) fostering election rules that encourage candidates to run for office and; (3) protecting the integrity of American elections from foreign influences.

In a representative democracy, the critical link between the people and their government is a system of free, open, and honest elections through which people choose who will represent their views in matters of public policy. Election laws should encourage, not discourage, persons from running for public office.

No element of our electoral process is more important than the Constitutionally guaranteed rights of free speech and assembly. The ability of individuals and candidates to speak their views freely and vigorously provides a strong foundation for competitive elections and is the ultimate protection against tyranny. The U.S. Supreme Court has held that excessive regulation of campaign processes interferes with these Constitutional rights. In the landmark case of *Buckley v. Valeo* (1976), the Supreme Court held that mandatory limits on campaign expenditures are unconstitutional and further held that only “corruption or the appearance of corruption” could justify limits on campaign contributions.

We believe these objectives can be accomplished without any infringements on those freedoms.

SUMMARY OF THE LEGISLATION

STRENGTHEN THE BAN ON FOREIGN CONTRIBUTIONS WHILE
PROTECTING RIGHTS OF U.S. CITIZENS

This bill clarifies one of the principal areas of murkiness that fostered the abuses of 1996, thus closing a major loophole in the law. H.R. 2668 states clearly that the ban on foreign contributions extends to all campaign-related disbursements, including soft money. It is similar to provisions in bills offered by Reps. Shays (H.R. 417), Burton (H.R. 1747), Gillmor (H.R. 1778), and Hoyer (H.R. 1818). The Administration and a Federal District Judge have interpreted current law as banning only federal contributions from foreign sources. This provision bans any disbursement that would include donations or spending for any federal, state or local campaign.

The bill also seeks to insure that contributed funds come from U.S. sources and protects the rights of all Americans to contribute. It codifies current Federal Election Commission (FEC) regulations that require PAC, corporation or union contributions to come from U.S. sources, i.e., generated from business activities within the U.S. (Also included in the Gillmor bill). And it protects the existence of PACs sponsored by U.S. subsidiaries of foreign-owned corporations, so long as their contributions come from eligible U.S. voters (included in the Gillmor and Shays bills). These sections effective upon enactment.

IMPROVE AND EXPEDITE DISCLOSURE

H.R. 2668 would greatly improve public access to campaign funding information. It requires electronic filing of contributions and expenditures by committees raising or spending over \$50,000 in an election cycle (also included in the Hutchinson bill, with similar provisions in the Doolittle (H.R. 1922), Hoyer and Shay's bills). All major committees would be required to file reports electronically, and the FEC would be required to post such reports on the Internet within 24 hours after they are received.

Also, to expedite disclosure in the period leading up to an election, the bill requires electronic filing within 24 hours during the last 90 days of an election, identifying: (1) contributions of \$200 or more by committees that file electronically; and (2) independent expenditures by committees that have spent more than \$10,000 in the current or either two prior election cycles. (The Doolittle bill has a similar provision, but applies to all contributions in the last 90 days.)

The bill also would change reporting from a calendar year basis to an election cycle basis (as recommended by the FEC and by the Hoyer bill). This would reduce confusion and costly errors in many campaigns' FEC filings. Reports would aggregate all contributions made to date in an election cycle, rather than just the calendar year, so accidental receipt of excess contributions would be easier for candidates to prevent.

Disclosure would also be enhanced by a requirement to report secondary payments by major entities (recommended by the FEC and the Dreier bill, H.R. 32). Major consultants and campaign sub-contractors such as advertising agencies would be required to report their expenditures to the campaign for inclusion in the cam-

paign's report, so that campaigns could not hide expenditures by subcontracting them. There is a \$5,000 threshold to ensure that small entities are not unduly burdened.

Another area targeted for greater disclosure pertains to soft money. H.R. 2668 requires national parties to disclose to the FEC any transfers of funds to state and local affiliates, and it requires state and local parties to file with the FEC copies of any reports required under their respective state or local laws (contained in the Doolittle bill). This provision would increase the information available to the public on state and local political party finances, without usurping state prerogatives to regulate their own elections.

The Committee's bill requires post-election reports to show cumulative contributions and expenditures (as recommended by the FEC and the Dreier bill). This will enable the public to see more readily the total amounts contributed and spent in each primary and general election. Similarly, the bill requires data on aggregate contributions in itemized contribution reports. When a particular contribution is reported, the report would also list the total contribution from that particular person in that election cycle. This will help campaigns to avoid accidental acceptance of contributions in amounts over the contribution limits.

Finally, the bill ensures the permissibility of FAX and electronic mail to file reports, to allow candidates and committees not required to file electronically to use the latest technology for reporting (recommended by the FEC and the Hoyer bill).

IMPROVE AND STREAMLINE FEC ENFORCEMENT

The Committee's bill changes FEC standards for initiation of actions from "reason to believe" a violation has been committed to "reason to seek additional information" regarding a possible violation, and requires a standard complaint form with a revised FEC disclaimer (a modified FEC recommendation). These provisions ensure that when the FEC announces the beginning of a more detailed inquiry into a possible violation, the phraseology does not imply guilt of the subject of the inquiry. When complaints are filed, the notice will contain language indicating that filing of the complaint does not reflect any verification or official sanction by the FEC regarding the merits of the complaint.

The bill also establishes procedures for written responses to questions on election law by the FEC (included in the Dreier bill). Where the answers to election law questions are clear and unambiguous, the FEC could use a procedure for providing an answer in writing that the requester can rely upon. Currently such answers can be obtained on a toll-free telephone line, but they are not in writing, and the person requesting the answer cannot rely on them. "Safe harbor protection" would be afforded anyone who relies in good faith on a written response.

Easing the regulatory burden on the FEC was the goal of another of the bill's provisions, to allow administrative procedures for imposing fines of up to \$20,000 for reporting violations (as recommended in the recent Independent Audit). This creates a simplified procedure for the FEC to administratively handle reporting violations. Before imposing a fine, the FEC must provide an oppor-

tunity for the person to be heard before the Commission, and the person has the right to a court appeal.

To deal with the complicated issues surrounding contributions of questionable legality, the Committee bill adopts a proposal by Rep. Gekas in the 105th Congress (H.R. 1494), which is also contained in the Shays measure. This “tainted money” provision requires that possibly illegal contributions, held longer than 90 days, be returned to the FEC and held in escrow instead of being returned directly to the donor, until the nature of any violation has been established.

OTHER PROVISIONS

The bill contains a number of provisions recommended by the FEC and contained in the Hoyer bill (H.R. 1818).

First, it bans acceptance of cash contributions over \$100; the law now only bans making them.

Second, it clarifies that the aggregate individual contribution limit (\$25,000 per year) is to be applied on a calendar year basis during non-election years. Current law applies a contribution to a candidate to the year of the next election, instead of when it was made; this creates confusion about which year to apply a contribution and creates accidental violations that consume needless energy and time at the FEC.

Third, the bill treats lines of credit as commercially reasonable loans. New forms of credit such as credit card advances and home equity loans would be allowed for campaign purposes, if they were offered on commercially reasonable terms.

Fourth, the bill broadens the law’s prohibition against force and reprisals. Current law prohibits coerced contributions or expenditures by a PAC, but not necessarily contributions to a PAC. This would prohibit a corporation or labor union from using coercion to force contributions by an individual to a PAC or to a candidate.

Fifth, the bill repeals a requirement for the Secretary of Commerce to file reports on congressional district population with the FEC. This was originally intended to be used to calculate congressional district spending limits enacted in 1974, but struck down by the Supreme Court in the 1976 Buckley ruling.

Sixth, H.R. 2668 deletes references to honoraria in the FECA, as the FEC no longer has jurisdiction in this area.

Finally, the bill removes language authorizing ex officio FEC membership of the Clerk of the House and Secretary of the Senate (as recommended by the FEC). House and Senate rules no longer provide for membership of the Clerk and the Secretary; these provisions in federal election law are outdated and should be removed.

SECTION-BY-SECTION DESCRIPTION

Section 1. Short title

- (a) Entitles bill the “Campaign Reform and Election Integrity Act of 1999.”
- (b) Table of contents.

Section 2. References in act

- (a) States that references in bill are to Federal Election Campaign Act of 1971, unless otherwise stated.

Title I—Ban on Foreign Contributions

Section 101. Extending the ban on foreign contributions to all campaign disbursements; protecting equal participation of eligible voters

- (a) Adds soft money disbursements and independent expenditures to prohibited election-related financing by foreign nationals.
- (b) Codifies regulations prohibiting contributions or donations to candidates, committees, and parties from funds not generated from business activities in the U.S. of an entity “organized under or created by the laws of the U.S.”
- (c) States that nothing in the Act prohibits anyone eligible to vote in federal elections from contributing or spending money in support of candidates, including through a separate segregated fund set up by his/her employer or union.
- (d) Makes this section effective on date of enactment.

Title II—Improving Reporting of Information

Section 201. Requiring electronic filing for certain activity and expediting its reporting

- (a) Requires electronic disclosure within 24 hours during last 90 days of election of contributions of \$200 or more to committees required to file electronically, and of independent expenditures (if total independent expenditures by spender reached at least \$10,000 in that or either two previous election cycles), with immediate Internet posting by FEC.
- (b) Requires electronic disclosure by all committees with aggregate election cycle contributions or expenditures of at least \$50,000, with FEC to certify private sector software for such filings.
- (c) Requires candidate committee notices of contributions of \$1,000 or more in the last 20 days of an election to cover activity through poll closing (rather than 48 hours before), and requires filing within 24 hours of receipt (rather than 48 hours), or, if earlier, by midnight of the day of deposit.
- (d) Requires receipt of reports within 24 hours of independent expenditures made in the last 20 days of an election.
- (e) Requires reporting on election cycle, rather than calendar year basis, to facilitate monitoring of adherence to contribution limits. Defines election cycle as beginning on the day after the most recent general election for that office and ending on the date of that election.
- (f) Allows 24-hour notices to be filed by FAX or email.

Section 202. Requiring reporting of secondary payments and of cumulative information

- (a) Requires record-keeping and disclosure by political committees of secondary payees once an intermediate agent spends at least \$5,000 in that election cycle for goods and services in support of a candidate.
- (b) Requires post-election reports to include cumulative information on contributions and expenditures as of Election Day.
- (c) Requires itemized receipt reports to include total contributions by a contributor in that election.

Section 203. Requiring disclosure of certain soft money by political parties

(a) Requires disclosure by national parties of all funds transferred to state and local affiliates, whether or not funds are regulated by federal election law.

(b) Requires state and local parties to file copies with the FEC of any disclosure reports required under state and local laws.

Title III—Strengthening Enforcement and Administration of Federal Election Commission

Section 301. Changing standards for initiating actions and allowing written responses to certain questions

(a) Changes standard for initiating action from “reason to believe” to “reason to seek additional information” regarding possible violations.

(b) Requires FEC to issue written responses to questions where the law is clear and unambiguous, and applies “safe harbor” protection for anyone acting in good faith, relying on written response. Requires FEC to publish requests and responses and to compile an index thereof.

(c) Requires standard form for complaints. Requires clear statements by FEC to the object of any complaint filed that the matter is under investigation and has not been verified or proven.

Section 302. Banning acceptance of cash contributions greater than \$100

(a) Prohibits receipt of cash contributions—in U.S. or foreign currency—in excess of \$100.

(b) Provides that money in the account may be used to determine the amount of fines and penalties.

(c) Defines donation for the purposes of this section as applicable only to national party committees.

(d) Permits conciliation agreement or other enforcement action to require forfeiture to the Treasury of funds held in escrow.

(e) Makes this section effective on date of enactment.

Section 303. Depositing certain contributions and donations to be returned in Treasury escrow account

(a) Provides that contributions over \$500 that a committee intends to return (after 90 days of receipt) be placed in an FEC escrow account, pending investigation of possible violations.

(b) Provides that money in the account would be used toward fines, penalties, and investigation costs.

(c) Provides that contributions in escrow account would be returned to donors if no reason to seek further information regarding a possible violation is found within 180 days of deposit.

Section 304. Creating alternative procedures for imposing penalties for reporting violations

(a) Allows FEC to create an administrative fine schedule for minor reporting violations, taking into account amount of violation (which may not exceed \$20,000), any prior violations, and other factors.

Section 305. Abolishing ex officio memberships on Federal Election Commission

(a) Abolishes ex officio FEC membership of House Clerk and Secretary of Senate.

Section 306. Broadening prohibition against force and reprisals

(a) Broadens prohibition against force and reprisals by separate segregated funds, to cover causing another person to make a contribution or expenditure under said conditions.

Section 307. Giving signature authority to members of Commission

Allows the issuance of (a) subpoenas and (b) notifications of intent to seek additional information, with the signature of any member of the Commission (not just the chair or vice chair).

Title IV—Simplifying and Clarifying Federal Election Law

Section 401. Applying aggregate contribution limit on calendar year basis in all years

(a) Applies contributions in an off-election year toward an individual's aggregate limit for that year, not the election year.

Section 402. Treating candidates' lines of credit as commercially reasonable loans

(a) Exempts from "contribution" definition, candidate loans based on lines of credit, such as an advance on a candidate's credit card or home equity line of credit provided that the loan is made under commercially reasonable terms and in the normal course of business.

Section 403. Repealing reports on district-specific population and changing deadlines for submitting certain information to FEC

(a) Repeals requirement that Secretary of Commerce report voting age population by congressional district.

(b) Requires price index and voting age population data by February 15 of each year.

Section 404. Technical correction regarding treatment of honoraria

(a) Deletes honoraria reference as exemption from "contribution" definition

Title V—Effective Date

Section 501. Effective with respect to elections occurring after January 2001 except as otherwise provided.

COMMITTEE CONSIDERATION OF THE LEGISLATION

INTRODUCTION AND REFERRAL

On Monday, August 2, 1999, Mr. Thomas, Mr. Ney, Mr. Boehner, Mr. Ehlers, Mr. Mica and Mr. Ewing introduced H.R. 2668 that was referred to the Committee on House Administration.

HEARINGS

The Committee on House Administration held four days of a hearing on Campaign Reform over two months in 1999.

On June 17, 1999, the Committee held the first day of the hearing on Campaign Reform. Members present: Mr. Boehner, Mr. Ehlers, Mr. Mica, Mr. Ewing, Mr. Hoyer, and Mr. Davis. Witnesses: Mr. Gilchrest testified on H.R. 593 and H.R. 594. Mr. Calvert testified on H.R. 1880. Mr. Sabo testified on H.R. 1171.

On June 29, 1999, the Committee held the second day of the hearing on Campaign Reform. Members present: Mr. Thomas, Mr. Boehner, Mr. Ney, Mr. Mica, Mr. Ewing, Mr. Hoyer, Mr. Fattah, and Mr. Davis. Witnesses: Mr. Shays testified on H.R. 417, Mr. Hutchinson testified on H.R. 1867, Mr. Regula testified on H.R. 1641, Ms. Mink testified on H.R. 399 and H.R. 400, Mr. Gillmor testified on H.R. 1778 (sharing time with Mr. Tanner), and Mr. Andrews testified on H.R. 331.

On July 13, 1999, the Committee held the third day of the hearing on Campaign Reform. Members present: Mr. Boehner, Mr. Ney, Mr. Ewing, Mr. Hoyer, and Mr. Davis. Witnesses: Mr. Dreier submitted written testimony on H.R. 32, Mr. Doolittle testified on H.R. 1922, Mr. Burton testified on H.R. 1747, Mr. Bereuter testified on H.R. 69, Mr. Pitts testified on H.R. 223, Mr. Goodling testified on H.R. 2467, Mr. Price testified on H.R. 227, Mr. Paul testified on H.R. 2026 and H.R. 2027, and Mr. Watkins testified on H.R. 696.

On July 22, 1999, the Committee held the fourth day of the hearing on Campaign Reform. Members present: Mr. Thomas, Mr. Boehner, Mr. Ehlers, Mr. Hoyer, Mr. Fattah, and Mr. Davis. Witnesses: Roger Pilon, Director, Center for Constitutional Studies, CATO Institute; Laura Murphy, Legislative Director, American Civil Liberties Union; Don Simon, Acting President, Common Cause; Jim Miller, Author of *Monopoly Politics*, former Director OMB; Burt Neuborne, Director, Brennan Center for Law and Justice; James Bopp, James Madison Center for Free Speech; Bob Dahl, Fair Government Foundation; Paul Sullivan, Americans Back in Charge Foundation; David O'Steen, Executive Director, National Right to Life Committee; Cheryl Perrin, Executive Director, Campaign for America; Amy Kauffman, Research Fellow, Hudson Institute; and Kathleen Hall Jamieson, Dean, the Annenberg School of Communication.

MARKUP

On Monday August 2, 1999 the Committee met to mark up H.R. 2668, H.R. 417, H.R. 1867, and H.R. 1922. The Committee favorably reported H.R. 2668, as amended, by voice vote a quorum being present. During the markup six amendments were offered by Mr. Hoyer. Mr. Hoyer's third amendment was agreed to by unanimous consent.

AMENDMENT NO. 1

Offered by Mr. Hoyer. The amendment consisted of two sections: (1) required that all political action committees raising or spending more than \$100,000 per year file monthly reports with the Federal Election Commission and; (2) provided the option that all political action committees may file monthly. The amendment was divided by unanimous consent. The first section was rejected by a show of hands. The second section was rejected by a show of hands.

AMENDMENT NO. 2

Offered by Mr. Hoyer. The amendment authorized the Federal Election Commission to audit a committee, for cause, for up to one (1) year after an election. Rejected by recorded vote. As required by Clause 3(b) of rule XIII the recorded vote is reported below.

Member	Yes	No	Present
Mr. Thomas .....	.....	X	.....
Mr. Boehner .....	.....	X	.....
Mr. Ehlers .....	.....	X	.....
Mr. Ney .....	.....	X	.....
Mr. Mica .....	.....	.....	.....
Mr. Ewing .....	.....	X	.....
Mr. Hoyer	X	.....	.....
Mr. Fattah	X	.....	.....
Mr. Davis	X	.....	.....
Total	3	5	.....

AMENDMENT NO. 3

Offered by Mr. Hoyer. The amendment authorized all FEC Commissioner to sign subpoenas and reason-to-believe notifications approved by the Commission. Agreed to by unanimous consent.

AMENDMENT NO. 4

Offered by Mr. Hoyer. The amendment increased eligibility threshold for primary matching funds from 20 to 30 states, eliminate state specific expenditure limits for primary candidates, eliminate separate limit on expenditures for fundraising for primary candidates, change eligibility requirements for public financing, change deposit of repayments into the Presidential Election Campaign Fund instead of the general fund of the Treasury, and ban contributions to Presidential candidates certified to receive public financing. Withdrawn by Mr. Hoyer without objection.

AMENDMENT NO. 5

Offered by Mr. Hoyer. The amendment provided an authorization of \$38.516 million for the Federal Election Commission budget. Rejected by voice vote.

AMENDMENT NO. 6

Offered by Mr. Hoyer. The amendment required the FEC to update national voting system standards. Rejected by a show of hands.

NEED FOR THE LEGISLATION

The Committee is reporting out four measures addressing the entire gamut of approaches to federal campaign finance reform. Three of them make fairly sweeping changes in the law—H.R. 417 (Shays-Meehan), H.R. 1867 (Hutchinson), and H.R. 1922 (Doolittle)—each taking vastly different approaches from one another. All of these are well intended, and all seek to reform federal campaign finance laws in accord with the philosophies of their sponsors. Supporters of each bill believe that it, maybe alone, constitutes “true reform,” the changes really needed to resolve the seemingly never-ending campaign finance debate. Too often over the years, and increasingly so it seems, the good has been seen as the enemy of the perfect when it comes to campaign finance reform.

And while the debate continues, certain problems magnify in their seriousness, and yet nothing is enacted. It has been 20 years since Congress has actually enacted any significant changes in the laws first passed in the 1970s. While waiting for a bipartisan consensus, so critical in this area, to develop, countless, sorely needed improvements in the operation of current law go unmade.

The fourth bill the Committee is reporting—H.R. 2668 (Chairman Thomas)—offers Congress the chance to make many of the changes to improve current law around which consensus has already developed. It contains a wide array of recommendations culled from bills introduced by Democrats and Republicans, endorsed by the FEC, or contained in recommendations of the recent Independent Audit of the FEC. The Committee believes that this bill will move the ball forward in creating a more workable, rational regulatory system.

While the Committee is reporting H.R. 2668 favorably—and unanimously, it is sending forth the Shays-Meehan bill with an unfavorable recommendation. We believe that it is unbalanced, unworkable, and, most of all, unconstitutional. We find merit in the two other bills—H.R. 1867 and H.R. 1922—which we are reporting without recommendation. We welcome the vigorous debate that the House will undoubtedly have on these measures. But, once again, while awaiting the much-desired consensus on sweeping reforms, we commend to your attention H.R. 2668, as a first step toward addressing the important issues raised in the conduct of our elections and their financing.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

COMMITTEE RECORD VOTES

Clause 3(b) of House rule XIII requires the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the committee report. The only recorded vote requested during consideration of H.R. 2668 occurred on Amendment No. 2 offered by Mr. Hoyer.

Member	Yes	No	Present
Mr. Thomas .....	.....	X	.....
Mr. Boehner .....	.....	X	.....
Mr. Ehlers .....	.....	X	.....
Mr. Ney .....	.....	X	.....
Mr. Mica .....	.....	.....	.....
Mr. Ewing .....	.....	X	.....
Mr. Hoyer	X	.....	.....
Mr. Fattah	X	.....	.....
Mr. Davis	X	.....	.....
Total	3	5	.....

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee states that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

OVERSIGHT FINDINGS OF COMMITTEE ON GOVERNMENT REFORM

The Committee states, with respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, that the Committee on Government Reform and Oversight did not submit findings or recommendations based on investigations under clause 4(c)(2) of rule X of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY

In compliance with clause 3(d)(1) of rule XIII, the Committee states that Article I, Section 4 of the U.S. Constitution grants Congress the authority to make laws governing the time, place and manner of holding Federal elections.

FEDERAL MANDATES

The Committee states, with respect to section 423 of the Congressional Budget Act of 1974, that the bill does not include any significant Federal mandate.

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee

states that H.R. 2668 is not intended to preempt any state or local law.

STATEMENT ON BUDGET AUTHORITY AND RELATED ITEMS

The bill does not provide for new budget authority.

COMMITTEE COST ESTIMATE

Clause 3(c)(2) of rule XIII requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended and, when practicable with respect to estimates of new budget authority, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law. Clause 3(d)(2) of rule XIII requires committees to include their own cost estimates in certain committee reports, which include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

AUGUST 4, 1999.

Hon. WILLIAM M. THOMAS,
Chairman Committee on House Administration, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2668, the Campaign Reform and Election Integrity Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs) and John Harris (for the private-sector impact).

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

H.R. 2668 would make numerous amendments to the Federal Election Campaign Act of 1971, including:

- (1) banning political contributions by noncitizens,
- (2) expanding the reporting of information to the Federal Election Commission (FEC),
- (3) requiring daily disclosure by political committees of certain contributions and expenditures at the end of an election cycle,

(4) requiring the electronic filing of information for campaigns that spend or raise more than \$50,000,

(5) requiring political committees to temporarily deposit with the Treasury certain contributions to be returned to the donor pending investigation by the FEC of possible violations, and

(6) authorizing the FEC to create an administrative fine schedule for minor reporting violations.

Subject to the availability of appropriated funds, CBO estimates that implementing H.R. 2668 would cost the FEC about \$1 million in fiscal year 2000. In future years, the bill might increase or decrease costs to the FEC, but CBO estimates that the net change in costs is not likely to be significant.

Enacting the bill also would increase collections of fines and penalties, but CBO estimates that any such increase would not be significant. Because the bill would affect receipts, pay-as-you-go procedures would apply.

H.R. 2668 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. The bill would impose new private-sector mandates on individuals, businesses, candidates for federal office, and political parties. CBO has not yet completed an estimate of the costs of these mandates, but will provide such an estimate at a later date.

Estimated cost to the Federal Government: CBO estimates that implementing H.R. 2668 would increase discretionary spending for administrative costs of the FEC by about \$1 million in fiscal year 2000. For future years, CBO estimates that the net change in FEC costs would probably not be significant. Implementing the bill would also affect receipts, but CBO estimates that the annual amounts of such changes are also not likely to be significant. The cost of this legislation fall within budget function 800 (general government).

Discretionary Spending.—After the 2000 cycle for federal elections, H.R. 2668 would require that political committees with aggregate contributions or expenditures of \$50,000 or more file their reports electronically with the FEC. During the 90 days preceding an election, the bill would require that committees report daily on any contribution of \$200 or more that they receive and that individuals report daily on certain types of expenditures in support of or against a candidate or candidates. The FEC would be required to process and post the information immediately on its Internet site. In addition, the bill would make several minor changes in how the FEC administers and investigates violations of the Federal Election Campaign Act.

Based on information from the FEC, and subject to the availability of appropriated funds, CBO estimates that implementing H.R. 2668 cost the FEC about \$1 million in fiscal year 2000. This cost would cover the one-time expenses of reconfiguring the FED's information systems to handle the increased workload from accepting and processing daily reports, as well as writing new regulations implementing the bill's provisions and printing and mailing materials informing candidates and political committees of the new requirements.

In future years, the FEC would have to monitor political parties' compliance with the bill's provisions and comply with the bill's changes in issuing opinions and investigating possible violations. The increase in costs from complying with the provisions would be offset by the bill's provision allowing the FEC to streamline its investigation of certain reporting requirements. CBO estimates that the net change in such costs would not be significant.

Government Receipts.—Enacting H.R. 2668 would likely increase collections of fines and penalties for violations of campaign finance law. This bill also would require that campaigns deposit certain contributions with the Treasury, which could then be applied toward any fines or penalties, and would allow the FEC to administer an alternative fine schedule for minor reporting violations. CBO estimates that the additional collections of penalties and fines would not be significant.

Escrow Fund.—H.R. 2668 would require political committees to deposit in an escrow fund at the Treasury any contribution or donation they receive that is equal to or greater than \$500 and that the committee has not returned within 90 days of its receipt. The contribution would be held pending an investigation by the FEC. Depending on the results of that investigation, the contribution could be returned—with interest—to the donor, applied toward any fines, penalties, or costs associated with the investigation, or some combination of the two. The FEC would have 180 days to complete its investigation. Deposits to or withdrawals from the escrow fund would not be considered budgetary transactions. However, the bill specifies that some of the amounts deposited into the escrow fund could be used to offset costs of FEC investigations. Any such use of escrow funds would affect direct spending, but CBO expects that the amounts involved would be less than \$500,000 a year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act specifies pay-as-you-go procedures for legislation affecting direct spending or receipts. These procedures would apply to H.R. 2668 because it could affect both direct spending and receipts, but CBO estimates that the annual of such changes would not be significant.

Estimated impact on State, local, and tribal governments: H.R. 2668 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: The bill would impose new private-sector mandates on individuals, businesses, candidates for federal office, and political parties. CBO has not yet completed an estimate of the costs of these mandates, but will provide such an estimate at a later date.

Estimate prepared by: Federal costs: John R. Righter; Impact on the private sector: John Harris.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL ELECTION CAMPAIGN ACT OF 1971

* * * * *

TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 301. When used in this Act:

(1) * * *

* * * * *

(8)(A) * * *

(B) The term “contribution” does not include—

(i) * * *

* * * * *

(xiii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access; and

[(xiv) any honorarium (within the meaning of section 323 of this Act).]

(xiv) any loan of money derived from an advance on a candidate’s brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, if such loan is made in accordance with applicable law and under commercially reasonable terms and if the person making such loan makes loans in the normal course of the person’s business.

* * * * *

[(19) The term “Act” means the Federal Election Campaign Act of 1971 as amended.]

(19) The term “Internet” means the international computer network of both Federal and non-Federal interoperable packet-switched data networks.

(20) ELECTION CYCLE.—Except as the Commission may otherwise provide, the term “election cycle” means, with respect to an election, the period beginning on the day after the date of the most recent general election for the office involved and ending on the date of the election.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) * * *

* * * * *

(j) A person described in section 304(b)(5)(A) who makes expenditures which aggregate \$5,000 or more in an election cycle to other persons (not including employees) who provide goods or services to a candidate or a candidate’s authorized committees shall provide to a political committee the information necessary to enable the committee to report the information described in such section.

* * * * *

REPORTS

SEC. 304. (a)(1) * * *

* * * * *

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or ~~[(4)(A)(ii)]~~ *or (4)(A)(ii), or the second sentence of subsection (c)(2)* is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

(6)(A) The principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate ~~after the 20th day, but more than 48 hours before any election~~ *during the period which begins on the 20th day before an election and ends at the time the polls close for such election.* This notification shall be made within ~~[48 hours]~~ *24 hours (or, if earlier, by midnight of the day on which the contribution is deposited)* after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7)(A) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(B) In the case of any report required to be filed by this subsection which is the first report required to be filed after the date of an election, the report shall include a statement of the total contributions received and expenditures made as of the date of the election.

* * * * *

(11)(A) The Commission shall permit reports required by this Act to be filed and preserved by means of computer disk or any other appropriate electronic format or ~~[method,]~~ *method (including by facsimile device or electronic mail in the case of any report required to be filed within 24 hours after the transaction reported has occurred),* as determined by the Commission~~[],~~ *except that in the case of a report submitted by a person who reports an aggregate amount of contributions or expenditures (as the case may be) in all reports filed with respect to the election cycle involved (taking into account the period covered by the report) in an amount equal to or greater than \$50,000, the Commission shall require the report to be filed and preserved by electronic mail, the Internet, or such other method of instantaneous transmission as the Commission may permit. The Commission shall certify (on an ongoing basis) private sector computer software which may be used for filing reports by such methods.*

* * * * *

(12)(A) Notwithstanding any other provision of this Act, each political committee described in subparagraph (B)(i) that receives a contribution in an amount equal to or greater than \$200, and any person described in subparagraph (B)(ii) who makes an independent

expenditure, during the period which begins on the 90th day before an election and ends at the time the polls close for such election shall, with respect to any information required to be filed with the Commission under this section with respect to such contribution or independent expenditure, file and preserve the information using electronic mail, the Internet, or such other method of instantaneous transmission as the Commission may permit, and shall file the information within 24 hours after the receipt of the contribution or the making of the independent expenditure.

(B) For purposes of subparagraph (A)—

(i) a political committee described in this clause is a political committee that has received an aggregate amount of contributions equal to or greater than \$50,000 with respect to the election cycle involved; and

(ii) a person described in this clause is a person who makes an aggregate amount of independent expenditures during the election cycle involved or during any of the 2 previous 2-year general election cycles in an amount equal to or greater than \$10,000.

(C) The Commission shall make the information filed under this paragraph available on the Internet immediately upon receipt.

(b) Each report under this section shall disclose—

(1) * * *

(2) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) * * *

* * * * *

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution and the total amount of all such contributions made by such committee with respect to the election involved;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution and the total amount of all such contributions made by such committee with respect to the election involved and the total amount of all such contributions made by such person with respect to the election involved;

* * * * *

(4) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all disbursements, and all disbursements in the following categories:

(A) * * *

* * * * *

(H) for any political committee other than an authorized committee—

(i) * * *

* * * * *

(v) any other disbursements; [and]

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 315(b); and

(J) *in the case of a political committee of a national political party, all funds transferred to any political committee of a State or local political party, without regard to whether or not the funds are otherwise treated as contributions or expenditures under this title;*

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure[;], and, if such person in turn makes expenditures which aggregate \$5,000 or more in an election cycle to other persons (not including employees) who provide goods or services to the candidate or the candidate's authorized committees, the name and address of such other persons, together with the date, amount, and purpose of such expenditures;

* * * * *

(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of \$200 within the [calendar year] election cycle, together with the date and amount of any such disbursement;

* * * * *

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office); and

(c)(1) * * *

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2), and shall include—

(A) * * *

* * * * *

Any independent expenditure (including those described in subsection (b)(6)(B)(iii) aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before any election shall be [reported] filed within 24 hours after such independent expenditure

is made. Such statement shall be filed with the Secretary or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved. *Notwithstanding subsection (a)(5), the time at which the statement under this subsection is received by the Secretary, the Commission, or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.*

* * * * *

(d) If a political committee of a State or local political party is required under a State or local law, rule, or regulation to submit a report on its disbursements to an entity of the State or local government, the committee shall file a copy of the report with the Commission at the time it submits the report to such an entity.

* * * * *

FEDERAL ELECTION COMMISSION

SEC. 306. (a)(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of [the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and] 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

(3) Members shall be chosen on the basis of their experience, integrity, impartiality, and good judgment and members [(other than the Secretary of the Senate and the Clerk of the House of Representatives)] shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government. Such members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time of his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.

(4) Members of the Commission [(other than the Secretary of the Senate and the Clerk of the House of Representatives)] shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule. (5 U.S.C. 5315)

(5) The Commission shall elect a chairman and a vice chairman from among its members [(other than the Secretary of the Senate and the Clerk of the House of Representatives)] for a term of one year. A member may serve as chairman only once during any term of office to which such member is appointed. The chairman and the vice chairman shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in such office.

* * * * *

POWERS OF THE COMMISSION

SEC. 307. (a) The Commission has the power—

(1) * * *

* * * * *

(3) to require by subpoena, [signed by the chairman or the vice chairman] *signed by any member of the Commission*, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

* * * * *

(7) to render advisory opinions under section 308 [of this Act] *and other written responses under section 308A*;

* * * * *

OTHER WRITTEN RESPONSES TO QUESTIONS

SEC. 308A. (a) *PERMITTING RESPONSES.*—In addition to issuing advisory opinions under section 308, the Commission shall issue written responses pursuant to this section with respect to a written request concerning the application of this Act, chapter 95 or chapter 96 of the Internal Revenue Code of 1986, a rule or regulation prescribed by the Commission, or an advisory opinion issued by the Commission under section 308, with respect to a specific transaction or activity by the person, if the Commission finds the application of the Act, chapter, rule, regulation, or advisory opinion to the transaction or activity to be clear and unambiguous.

(b) *PROCEDURE FOR RESPONSE.*—

(1) *ANALYSIS BY STAFF.*—The staff of the Commission shall analyze each request submitted under this section. If the staff believes that the standard described in subsection (a) is met with respect to the request, the staff shall circulate a statement to that effect together with a draft response to the request to the members of the Commission.

(2) *ISSUANCE OF RESPONSE.*—Upon the expiration of the 3-day period beginning on the date the statement and draft response is circulated (excluding weekends or holidays), the Commission shall issue the response, unless during such period any member of the Commission objects to issuing the response.

(c) *EFFECT OF RESPONSE.*—

(1) *SAFE HARBOR.*—Notwithstanding any other provisions of law, any person who relies upon any provision or finding of a written response issued under this section and who acts in good faith in accordance with the provisions and findings of such response shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1986.

(2) *NO RELIANCE BY OTHER PARTIES.*—Any written response issued by the Commission under this section may only be relied upon by the person involved in the specific transaction or activity with respect to which such response is issued, and may not be applied by the Commission with respect to any other person or used by the Commission for enforcement or regulatory purposes.

(d) *PUBLICATION OF REQUESTS AND RESPONSES.*—The Commission shall make public any request for a written response made, and the responses issued, under this section. In carrying out this subsection, the Commission may not make public the identity of any person submitting a request for a written response unless the person specifically authorizes to Commission to do so.

(e) *COMPILATION OF INDEX.*—The Commission shall compile, publish, and regularly update a complete and detailed index of the responses issued under this section through which responses may be found on the basis of the subjects included in the responses.

ENFORCEMENT

SEC. 309. (a)(1)(A) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, *shall be in a standard form prescribed by the Commission, shall not include (but may refer to) extraneous materials*, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(B) *The written notice of a complaint provided by the Commission under subparagraph (A) to a person alleged to have committed a violation referred to in the complaint shall include a cover letter (in a form prescribed by the Commission) and the following statement: "The enclosed complaint has been filed against you with the Federal Election Commission. The Commission has not verified or given official sanction to the complaint. The Commission will make no decision to pursue the complaint for a period of at least 15 days from your receipt of this complaint. You may, if you wish, submit a written statement to the Commission explaining why the Commission should take no action against you based on this complaint. If the Commission should decide to seek additional information, you will be notified and be given further opportunity to respond."*

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that [it has reason to believe that a person has committed, or is about to commit, a violation of this Act of chapter 95 or chapter 96 of the Internal Revenue Code of 1954,] *it has a reason to seek additional information regarding a possible violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 that has occurred or is about to occur (based on the same criteria applicable under this paragraph prior to the enactment of the Campaign Reform and*

Election Integrity Act of 1999), the Commission shall, [through its chairman or vice chairman] *through any of its members*, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

* * * * *

(4)(A)(i) Except as provided in [clause (ii)] *clauses (ii) and subparagraph (C)*, if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

* * * * *

(C)(i) *Notwithstanding subparagraph (A), in the case of a violation of any requirement under this Act relating to the reporting of receipts or disbursements, the Commission may—*

(I) *find that a person committed such a violation on the basis of information obtained pursuant to the procedures described in paragraphs (1) and (2); and*

(II) *based on such finding, require the person to pay a civil money penalty in an amount determined under a schedule of penalties which is established and published by the Commission and which takes into account the amount of the violation involved, the existence of previous violations by the person, and such other factors as the Commission considers appropriate (but which in no event exceeds \$20,000).*

(ii) *The Commission may not make any determination adverse to a person under clause (i) until the person has been given written notice and an opportunity to be heard before the Commission.*

(iii) *Any person against whom an adverse determination is made under this subparagraph may obtain a review of such determination by filing in the United States District Court for the District of Columbia or for the district in which the person resides or transacts business (prior to the expiration of the 30-day period which begins on the date the person receives notification of the determination) a written petition requesting that the determination be modified or set aside.*

(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, by the methods specified in paragraph (4)[(A)], the Commission may, upon an affirmative vote of 4 of its members,

insitute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

* * * * *

(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 323, the amount of the donation involved shall be treated as the amount of the contribution involved.

* * * * *

(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 323.

* * * * *

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 315. (a)(1) * * *

* * * * *

(3) No individual shall make contributions aggregating more than \$25,000 in any calendar year. [For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.]

* * * * *

(c)(1) [At the beginning] *Not later than February 15* of each calendar year (commencing in 1976), [as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor,] the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

* * * * *

(e) [During the first week of January 1975, and every subsequent year,] *Not later than February 15 of 1975 and each subsequent year*, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United [States, of each State, and of each congressional district] *States and of each State* as of the first day of July next preceding the date of certification. The term “voting

age population” means resident population, 18 years of age or older.

* * * * *

(i) *No candidate or political committee may accept any contributions of currency of the United States or currency of any foreign country from any person which, in the aggregate, exceed \$100.*

CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS,
CORPORATIONS, OR LABOR ORGANIZATIONS

SEC. 316. (a) * * *

(b)(1) * * *

* * * * *

(3) It shall be unlawful—

(A) *for such a fund to cause another person to make a contribution or expenditure by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal;*

[(A)] (B) *for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;*

[(B)] (C) *for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and*

[(C)] (D) *for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.*

* * * * *

[(CONTRIBUTIONS)] DONATIONS AND OTHER DISBURSEMENTS BY
FOREIGN NATIONALS

SEC. 319. (a) It shall be unlawful for a foreign national directly or through any other person to make any [(contribution)] *donation or other disbursement* of money or other thing of value, or to promise expressly or impliedly to make any such [(contribution)] *donation or other disbursement*, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office[;], *including any donation or other disbursement to a political committee of a political party and any donation or other disbursement for an independent expenditure;* or for any person to solicit, accept, or receive any such [(contribution)] *donation or other disbursement* from a foreign national.

(b) *It shall be unlawful for any person organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States to make any donation or other disbursement to any candidate for political office in connec-*

tion with an election for any political office, or to make any donation or other disbursement to any political committee or to any organization or account created or controlled by any United States political party, unless such donation or disbursement is derived solely from funds generated from such person's own business activities in the United States.

(c) Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual's employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office.

[(b)] (d) As used in this section, the term "foreign national" means—

(1) * * *

* * * * *

TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

SEC. 323. (a) TRANSFER TO COMMISSION.—

(1) *IN GENERAL.*—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

(A) the contribution or donation is in an amount equal to or greater than \$500 (other than a contribution or donation returned within 90 days of receipt by the committee); or

(B) the contribution or donation was made in violation of section 315, 316, 317, 319, or 320 (other than a contribution or donation returned within 90 days of receipt by the committee).

(2) *INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.*—A political committee shall include with any contribution or donation transferred under paragraph (1)—

(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

(3) *ESTABLISHMENT OF ESCROW ACCOUNT.*—

(A) *IN GENERAL.*—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

(B) *DISPOSITION OF AMOUNTS RECEIVED.*—On receiving an amount from a political committee under paragraph (1), the Commission shall—

- (i) deposit the amount in the escrow account established under subparagraph (A); and
- (ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

(C) *USE OF INTEREST.*—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

(4) *TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.*—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

(b) *USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.*—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code, against the person making the contribution or donation.

(c) *RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.*—

(1) *IN GENERAL.*—The Commission shall return a contribution or donation deposited in the escrow account under subsection (a)(3) to the person making the contribution or donation if—

(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) to seek additional information regarding whether or not the contribution or donation was made in violation of this Act; or

(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

(2) *NO EFFECT ON STATUS OF INVESTIGATION.*—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.

(d) *DONATION DEFINED.*—In this section, the term “donation” means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in section 301(8)).

VIEWS OF COMMITTEE MEMBERS

Clause 3(a) of rule XIII requires each committee to afford a two day opportunity for members of the committee to file supplemental,

minority, or additional views and to include the views in its report. The Committee on House Administration Minority members have submitted dissenting views.

ADDITIONAL VIEWS

On August 2, 1999, the Committee on House Administration reported out four bills: three measures aimed at reforming the campaign finance system, and the Chairman's Federal Election Commission reform bill, H.R. 2668. Only H.R. 2668 received the unanimous support of the Committee. In fact, it was the only bill favorably reported by the Committee. While we believe that the Chairman's bill contains much-needed and long-overdue process and housekeeping fixes related to the Federal Election Commission (FEC), it does nothing to address soft money or the explosion of undisclosed issue advocacy, and has little to do with campaign finance reform. As Rep. Hoyer noted at the Committee meeting, it would be a "cynical, Machiavellian ruse" if H.R. 2668 were used to prevent H.R. 417, the bipartisan Shays-Meehan bill that passed the House by a significant Majority of 252-179 less than a year ago, from once again receiving a vote on the floor.

In 1996, Meg Greenfield, a columnist for Newsweek magazine, compared the campaign finance laws to a squirrel baffle, a device designed to keep squirrels from reaching food. While it took humans months to construct the baffle, it took a particular determined squirrel only one day to penetrate it. And once one squirrel was through, a veritable army of squirrels was soon going back and forth. Her point was not that campaign finance reform was a fruitless endeavor, but rather that "pretty much all reforms have a limit on them: the number of years it will take for motivated people to learn how to manipulate the system to their advantage." We agree that reform is a cyclical process, and that it is to be expected that in the 20 years since we last visited this area, new ways of penetrating the baffle of campaign finance laws have emerged.

Two key "penetrations" have come in the form of unlimited "soft" money contributions from corporations, unions and individuals and in the explosion of "issue" advertisements that are not about issues at all, but instead are designed to advocate the election or defeat of particular candidates without abiding by rules that govern the candidates themselves. We believe that any real campaign finance reform must address both problems.

Despite the bipartisan support H.R. 417, the Majority voted it out of Committee unfavorably, unwilling to accord it even the courtesy granted to H.R. 1922 and H.R. 1867, both of which were reported without recommendation. In essence, the Committee favorably reported a bill that has little to do with campaign finance, was undecided as to two bills that failed to receive 150 votes each last year, and opposed the one campaign finance reform bill that has the demonstrated bipartisan support needed to pass the House.

H.R. 2668 in and of itself is a worthy bill. The Federal Election Commission faces a formidable task not faced by any other executive branch agency in that it is directly responsible for regulating

the behavior of the very Members of Congress who in turn determine the agency's budget. As a result, even small procedural changes that would normally be routine often fail to get accomplished. H.R. 2668 combines many of these needed small fixes in one legislative package. While it does not hold itself out as a campaign finance reform bill, and makes no attempt to address the two key problems with the campaign finance system—soft money and the explosion of sham issue advertisements we support H.R. 2668.

In fact, 15 of the 26 provisions contained in H.R. 2668 were taken from H.R. 1818, sponsored by Rep. Hoyer along with Reps. Fattah and Davis. H.R. 1818 is designated to fine-tune current FEC practices and clarify inconsistencies in current law that have confused FEC officials, contributors, and candidates alike. Almost every provision either has the support of all six FEC Commissioners, or is taken directly from the recommendations of the audit of the FEC by PricewaterhouseCoopers last year. As Rep. Hoyer stated when H.R. 1818 was introduced in May, "The Congress needs to take steps to restore the public trust and ensure that laws are fully enforced. A fully empowered FEC is step 1, and campaign finance reform is step 2."

Like H.R. 1818, H.R. 2668 accomplishes step 1. It mandates much needed electronic filing, ensuring that public access to information about a candidate's sources of funding keeps pace in the emerging age of the Internet. H.R. 2668 also requires quicker disclosure of independent expenditures and last minute contributions, and make it simpler for contributors to comply with the annual \$25,000 limit. H.R. 2668 also places significant new reporting requirements on all political committees, requiring a daily reporting of all contributions received in excess of \$200 in the 90-day period preceding both the primary and the primary and the general election. While in the electronic age, this requirement certainly does not constitute the burden on candidates and PACs that it once would have, we remain concerned that this provision may need some further consideration and perhaps modification prior to enactment.

In addition to laudable enhancements of public disclosure, H.R. 2668, like H.R. 1818, broadens candidates ability to use brokerage accounts and other available lines of credit commonly available, and it creates an automatic fine system for minor reporting violations.

While we support H.R. 2668, we nonetheless regret that a number of provisions contained in H.R. 1818 are not included in this bill. During the Committee's consideration, we offered six amendments, each provisions of H.R. 1818 that we believe should be included in any FEC reform bill.

Amendment 1 would have required all PACs raising or spending in excess of \$100,000 to file monthly reports, and it would have created an optional structure to allow other committees to file monthly reports if they wished. While this amendment was intended to serve the interests of public disclosure and also to reduce the book-keeping demands upon Committees, the Majority chose not to adopt this non-controversial provision. Although the provision has the support of all six FEC Commissioners, the Majority claimed

there had been insufficient time to consult with those affected by the amendment.

Amendment 2 would have extended the period during which the FEC could initiate audits for cause from six months to one year after an election. Because it takes two months for financial information to be filed, much less analyzed, staff has insufficient time to determine what Committees should be audited for cause. Although this provision was again supported by all six FEC Commissioners, the Majority did not adopt the amendment. Amendment 3 consisted of a tiny housekeeping change regarding Commissioners authority to sign documents which was accepted.

Amendment 4 included a series of non-controversial changes to the Presidential public financing system. These changes would have included a prohibition on individuals previously convicted of fraudulent use of public funding receiving funds in future elections. The provisions would also have reduced bookkeeping burdens on those candidates receiving public funds. This amendment was laid aside at the request of the Chairman, who stated a preference to revisit this issue in a suspension bill at a later time. We look forward to working with the Chairman and the Majority on this issue in the future.

Amendment 5 would have authorized the FEC for the first time in many years. This amendment would have lent the stamp of legitimacy to an agency that is perpetually under-funded and understaffed. Amendment 6 would have mandated that the FEC update the election equipment standards used by states to ensure that voting equipment is accurate and secure. The standards have not been updated since 1990 and the FEC generally will not agree to an update without explicit Congressional instruction. Although this provision has the support of every Secretary of State in the country, the Majority voted not to accept this amendment. We regret the Majority's unwillingness to accept such a straightforward amendment that goes to the heart of the Committee's jurisdiction, and would ensure the accuracy and security of voting equipment used in elections nationwide.

Thus, given the fact that H.R. 2688 addresses much-needed FEC reform, we believe this legislation should receive a vote separate and apart from consideration of meaningful campaign finance reform such as the Shays-Meehan bill, H.R. 417. We are particularly concerned that opponents of meaningful campaign finance reform intend to use H.R. 2668 in a cynical attempt to kill the Shays-Meehan bill in this session. For example, we oppose any attempt to permit H.R. 2668 to become a substitute bill for H.R. 417. These two bills, as discussed above, address two different topics—campaign finance reform and FEC reform—and should not be equated.

STENY H. HOYER.

CHAKA FATTAH.

JIM DAVIS.

